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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Geographic Partitioning and Spectrum) WT Docket No. 96-148 ✓ RECEIVED
Disaggregation by Commercial Mobile)
Radio Services Licensees)
Implementation of Section 251 of the) GN Docket No. 96-113 FEB 10 1997
Communications Act --)
Elimination of Market Barriers)
R. T. H. - REC'D. COMM. FEB. 10, 1997
FEDERAL COMMUNICATIONS COMMISSION
U.S. GOVERNMENT

COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AT&T"), by its attorneys, hereby submits its comments on the Commission's Further Notice of Proposed Rulemaking in the above-captioned proceeding.^{1/}

By permitting broadband personal communications services ("PCS") licensees to geographically partition and disaggregate their licenses, the Commission has taken an important first step toward its stated goals of lowering entry barriers for small businesses, facilitating the efficient use of the spectrum, and providing consumers with more service options and innovative technology.^{2/} Permitting full partitioning and disaggregation in cellular and other wireless services that are capable of competing with PCS would advance

^{1/} In the Matter of Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees; Implementation of Section 251 of the Communications Act -- Elimination of Market Barriers, WT Docket No. 96-148, GN Docket No. 96-113, Report and Order and Further Notice of Proposed Rulemaking, FCC 96-474 (rel. Dec. 20, 1996) ("Further Notice").

^{2/} Further Notice at ¶ 2.

these same objectives, and would further Congress's goal of promoting regulatory parity among commercial mobile radio services ("CMRS"). The Commission should promptly adopt its proposal to extend spectrum disaggregation and geographic partitioning authority to all CMRS licensees.

In deciding to permit disaggregation and partitioning by broadband PCS licensees, the Commission determined these mechanisms would enable additional entities to provide service within geographic market areas, resulting in increased competition in the PCS marketplace. Authorizing geographic partitioning and disaggregation of cellular spectrum and the spectrum of other wireless services that compete with PCS would further the public interest by increasing competition throughout the CMRS marketplace. In addition, as was the case with partitioning and disaggregation in the PCS context, this action could provide a funding source that would enable wireless licensees to build out their systems and provide the latest in technological enhancements to the public. While most cellular licensees have already constructed their systems, they nevertheless continue to need funding to upgrade their facilities, convert to digital technology, or take any other steps necessary to compete with PCS licensees and to provide their customers with the newest services and technologies.

As the Commission has previously recognized, "[s]uccess in the marketplace . . . should be driven by technological innovation, service quality, competition-based pricing decisions, and responsiveness to consumer needs -- and not by strategies in the regulatory

arena.³⁷ To ensure that the wireless marketplace functions in this manner, the Commission should provide all potential PCS competitors with the same degree of flexibility to respond to market forces and demands for service that the Commission has granted to PCS licensees. Indeed, the Congressional mandate to promote regulatory parity among wireless services requires the Commission to grant to all CMRS providers the same regulatory freedom now enjoyed by PCS operators.³⁸

The Commission also determined that market forces and available technology, rather than regulation, should determine the amount of spectrum that is disaggregated, and accordingly decided not to limit the amount of broadband PCS spectrum that can be disaggregated.³⁹ This rationale applies with equal force to other wireless services, and the Commission should therefore refrain from imposing minimum disaggregation standards on cellular and other wireless services. Likewise, the Commission should allow parties to a cellular disaggregation agreement to contract privately regarding satisfaction of construction requirements. As AT&T and other commenters pointed out in earlier comments in this proceeding, allowing the parties to allocate this obligation among themselves will increase the opportunities for disaggregation and will ensure that the requirements are met by the most

³⁷ Implementation of Sections 3(n) and 332 of the Communications Act: Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd 1411, 1418 (1994).

³⁸ See Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6002(b)(2)(A), 107 Stat. 312, 392 (1993).

³⁹ Further Notice at ¶ 49.

efficient party.⁹ To ensure that construction benchmarks are satisfied, the Commission could adopt disaggregation certification procedures for cellular and other wireless services that are similar to those adopted for broadband PCS.

The Commission should also use the same partial assignment procedures used for broadband PCS to review cellular disaggregation transactions and other wireless providers' disaggregation and partitioning transactions. As for license terms, AT&T agrees that parties obtaining disaggregated spectrum or partitioned licenses should hold their licenses for the remainder of the original license term and be afforded the same renewal expectancy as the initial licensee.

⁹ See Reply Comments of AT&T Wireless Services, Inc., WT Docket No. 96-148, GN Docket No. 96-113; at 6-7 (filed August 15, 1996).

CONCLUSION

For the reasons set forth above, the Commission should permit full geographic partitioning and spectrum disaggregation in cellular, and all other wireless services that are capable of competing with broadband PCS.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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